

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

MARKET-DOMINANT PRICE CHANGE

Docket No. R2020-1

USPS NOTICE OF FILING REVISED USPS-LR-R2020-1/NP1 AND REVISED  
APPLICATION FOR NON-PUBLIC TREATMENT  
(October 25, 2019)

The United States Postal Service (USPS or Postal Service) hereby provides notice of revisions to the following library reference in the **Non-Public Annex** in this proceeding:

**USPS-LR-R2020-1/NP1**

**FIRST-CLASS MAIL INTERNATIONAL  
AND INBOUND LETTER POST WORKPAPERS  
(NONPUBLIC) (Revised 10/25/19)**

This library reference has been uploaded to the Non-Public Library References folder on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT). Revised First-Class Mail International and Inbound Letter Post workpapers have been filed in response to Chairman's Information Request Nos. 4 (Question 2), 6 (Question 1), and 7 (Questions 2–4).<sup>1</sup> In addition, the Postal Service is submitting a revised Application for Non-Public Treatment, which is included as Attachment 1 with this filing. This revised Application for Non-Public Treatment replaces Attachment 1, Application for Non-Public Treatment, filed by the Postal Service on October 9, 2019 in Docket No. R2020-1. Therefore, the revised Application for Non-

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<sup>1</sup> Because of the changes to USPS-LR-R2020-1/NP1, the Postal Service has also submitted a revised First-Class Mail library reference. See USPS Notice of Filing Revised Library Reference USPS-LR-R2020-1/1, Docket No. R2020-1 (Oct. 25, 2019).

Public Treatment submitted today applies to the original and revised versions of USPS-LR-R2020-1/NP1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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## ATTACHMENT 1

### REVISED APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. Part 3007, the United States Postal Service (USPS or Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials covered by this revised application consist of the contents of the original and revised versions of library reference USPS-LR-R2020-1/NP1, each of which includes two Excel files pertaining to the price cap compliance of First-Class Mail International and Inbound Letter Post.<sup>2</sup>

The Postal Service hereby furnishes below the justification for this application as required by 39 C.F.R. § 3007.201(b).

**(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.**

The materials designated as non-public consist of information of a commercial nature as well as third party business information that, under good business practice, would not be disclosed to the public. The Postal Service does not believe that any commercial enterprise would voluntarily publish information pertaining to country-specific volume and revenue data, non-public settlement rates, or inbound market dominant contracts for which rates are negotiated with other postal operators. Thus, in the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).<sup>3</sup> Because the portions of

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<sup>2</sup> USPS-LR-R2020-1/NP1 also consists of the First-Class Mail International billing determinants for the hybrid year (Quarter 4 FY 2018 through Quarter 3 FY 2019) to support the volumes in the First-Class Mail International price cap compliance Excel file. The Postal Service has submitted the billing determinant files in public library reference USPS-LR-R2020-1/6.

<sup>3</sup> The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service

materials filed non-publicly in this docket by the Postal Service fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant the Postal Service's application for their non-public treatment.

**(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.<sup>4</sup>**

The Postal Service believes that the foreign postal operators whose governments are members of the Universal Postal Union (UPU) are the only third parties with a proprietary interest in the materials. Due to language and cultural differences as well as the sensitive nature of the Postal Service's rate relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators.<sup>5</sup> The Postal

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against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. See 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1 (Mar. 20, 2009), at 11.

<sup>4</sup> Section 3007.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

<sup>5</sup> The Postal Service acknowledges that 39 C.F.R. § 3007.201(b)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

Service identifies as an appropriate contact person Peter Chandler, Manager, UPU Relations, International Postal Affairs. Mr. Chandler's phone number is (202) 268-5549, and his email address is [peter.r.chandler@usps.gov](mailto:peter.r.chandler@usps.gov).

The Postal Service provided notice to all foreign postal operators within the UPU network through an International Bureau Circular issued on November 19, 2018, that the Postal Service will be regularly submitting certain business information to the Commission. UPU-designated foreign postal operators have a proprietary interest in information relating to their particular flows. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the following link, which is incorporated by reference into the instant application:

[http://pls.upu.int/pls/ap/addr\\_public.display\\_addr?p\\_language=AN](http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN).<sup>6</sup>

**(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.**

In connection with its Notice filed in this docket, the Postal Service included library reference USPS-LR-R2020-1/NP1. This library reference includes data pertaining to Outbound Single-Piece First-Class Mail International and Inbound Letter Post. These data underlie the proposed price changes that are the subject of this docket. These materials were filed under seal. The Postal Service maintains that these materials should remain confidential because they contain commercially sensitive information such as

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<sup>6</sup> To the extent required, the Postal Service seeks a waiver from having to provide, pursuant to 39 C.F.R. § 3007.200(b), each foreign postal operator notice of this docket. It is impractical to communicate with dozens of operators in multiple languages about this matter. Moreover, the volume of filings would overwhelm both the Postal Service and the applicable foreign postal operators with boilerplate notices.

country-specific Inbound Letter Post and outbound First-Class Mail International revenue, volume and weight data, and certain non-published settlement rate information, including the rates to be in effect from July onward that blend all format prices, including P and G format inbound letter post items and new prices for E-format inbound letter post items effective July 1, 2020.

**(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.**

If the data that the Postal Service determined to be protected from disclosure were to be disclosed publicly, the Postal Service considers that it is quite likely that the Postal Service would suffer commercial harm. Information about any non-published pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. For instance, competitors could use the information to assess the rates charged by the Postal Service to foreign postal operators for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service.

Additionally, blended rates using all format prices, including P and G format items and new prices for E-format items in effect from July onward, could be reverse engineered to make approximations of the rates that the Postal Service will establish for E-format items beginning July 1, 2020. Under the new process established for operators to set their rates under the Second Additional Protocol to the Universal Postal Convention and the Convention Regulations, operators submit their rates by the same date (i.e., March 1, 2020).<sup>7</sup> Therefore, if estimates of the Postal Service's non-published rates are obtained

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<sup>7</sup> See Notice of Filing Correspondence and the Second Additional Protocol to the Universal Postal Convention, Docket No. IM2019-1, October 17, 2019.

by foreign postal operators in advance of this date to set rates, these operators will have a significant advantage when setting their own rates. This information will also materially influence the rates that these operators will apply reciprocally (which they will have discretion to do) to the Postal Service. Generally, disclosure of this information could adversely affect rates of remuneration, which would harm the financial interests of the Postal Service and negotiating positions in fora where rate remuneration is determined.

The data also include specific information, such as country-specific letter post and First-Class Mail International revenue, volume, and weight data, and non-public settlement rate information used to determine pricing. This information is highly confidential in the business world. Indeed, foreign postal operators (or other potential customers) could use this information to assess the relative weight of their mail flows to or from the United States, thereby giving them an advantage when negotiating the terms of their own agreements with the Postal Service. Given that the spreadsheets contained in library reference USPS-LR-R2020-1/NP1 are filed in their native format, the Postal Service's assessment is that they are very likely to be used in this manner.

The inbound volume and/or weight information included in the inbound Excel files also consists of sensitive commercial information. Disclosure of such information could be used by competitors of a foreign postal operator to assess the operators' underlying market size and its costs, and thereby develop a benchmark for the creation of a competitive alternative. Eventually, this could impact the Postal Service's volume and revenue in these markets. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of library reference USPS-LR-R2020-1/NP1.

**(5) At least one specific hypothetical, illustrative example of each alleged harm.**

Identified harm: Public disclosure of information in USPS-LR-R2020-1/NP1 would be used by foreign postal operators to the detriment of the Postal Service.

Hypothetical: Foreign postal operators use the information to determine if remail opportunities exist in particular markets, which could result in revenue loss for the Postal Service in the event of undetected rate arbitrage practices. Additionally, blended rates using all format prices, including P and G format inbound letter post items and new prices for E-format inbound letter post items in effect from July onward, could be reverse engineered by foreign postal operators to determine approximations of the rates that the Postal Service will establish for E-format items beginning July 1, 2020. Having such estimates of the rates the Postal Service intends to establish for E-format items will give foreign postal operators undue leverage when setting their own rates for letter post items next year, and will influence what these operators will apply reciprocally (which they will have discretion to do) to the Postal Service. For instance, depending upon how foreign operators perceive the Postal Service's potential rate, they may decide to adjust their rate (presumably upward if they view their intended rate as lower in relation to the Postal Service's rate). Generally, disclosure of this information could adversely affect rates of remuneration, which would harm the financial interests of the Postal Service and negotiating positions in fora where rate remuneration is determined.

Identified harm: Public disclosure of information in USPS-LR-R2020-1/NP1 would be used by a foreign postal operator's competitors to its detriment.

Hypothetical: A competing international delivery service obtains a copy of the Inbound Letter Post Excel file from the Postal Regulatory Commission's website. The



competitor analyzes the data to assess a foreign postal operator's underlying costs and volumes for the corresponding products. The competitor uses that information to assess the market potential and negotiate with U.S. customs brokers and freight companies to develop lower-cost alternatives for inbound delivery of items in the United States.

Identified harm: Public disclosure of information in USPS- LR-R2020-1/NP1 would provide a market advantage to competitors.

Hypothetical: A competing international delivery service obtains a copy of the Inbound Letter Post Excel file from the Postal Regulatory Commission's website. The competitor uses the information in the rates to assess service performance, which is tied to base terminal dues in the Universal Postal Convention, and thereby attempts to advertise and market its services to foreign postal operators on that basis.

**(6) The extent of the protection from public disclosure alleged to be necessary.**

The Postal Service maintains that the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international delivery products (including both private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service (including foreign postal operators) for this or similar products should not be provided access to the non-public materials in library reference USPS-LR-R2020-1/NP1.

**(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof.**

The Commission's regulations provide that non-public materials shall lose non-

public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because the Postal Service's relationships with customers including foreign postal operators often continue beyond ten years or decades, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3007.401(b-c).

**(8) Any other relevant factors or reasons to support the application.**

None.

**Conclusion**

For the reasons discussed in this application, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.